



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/402,155 12/06/99 FOHL

PM82/1010

WILLIAM C GERSTENZANG
NORRIS MCLAUGHLIN & MARCUS
220 EAST 42ND STREET, 30TH FLOOR
NEWYORK, NEWYORK NY 10591-5144

A BAYER 10.202

EXAMINER

PEZZLO, R

ART UNIT

PAPER NUMBER

3613
DATE MAILED:

12
10/10/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/402,155

Applicant(s)

POHL ET AL.

Examiner

Benjamin A Pezzlo

Art Unit

3613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the spring 17 being connected up (i.e. not "optionally connected up" like spring 18) of claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Shtarkman (US 4869476).

Shtarkman discloses a spring/mass vibratory force coupler, see Fig. 1, with variable damping for coupling masses to a reference mass, comprising at least a vibratory mass 12, a damper 24, two springs 22 and 26, for connecting the vibratory mass 12 and the reference mass 14, of which at least one spring 22 can be optionally connected up, the spring 22 being connected up by means of coupling element 24 based on electrorheological or magnetorheological fluid.

Re claims 2-3, the mass of spring/damper element 30 provides an absorber mass which can be connected up by a voltage applied thereto.

Re claim 4, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have add any number of concentric spring/damper element in order to apply the device to the damping requirements of a particular system (see claim 1, "a plurality of sealed chambers").

Re claim 5, see Fig. 10, gas spring 204 and torsion spring 32a.

Re claim 8, the damper is connected to an engine.

Response to Arguments

4. Applicant's arguments filed 9 August 2001 have been fully considered but they are not persuasive. Applicant argues that the springs of Shtarkman are not springs because they "urge the spring back to the equilibrium conditions". Webster's Collegiate Dictionary (tenth edition) defines a spring as "an elastic body or device that recovers its original shape when released after being distorted". Accordingly, the springs of Shtarkman are springs because they provide a shape restoring function as Applicant points out.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

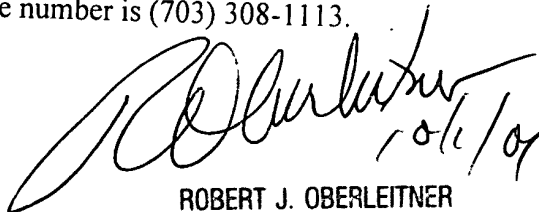
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shtarkman ('368), Ticks, Doi, Tabata, Sato, Wendt et al., Leitman et al., Ivers et al., Jolly et al., Sproston et al., Carlson et al., Endo et al., Mitsui, and Takano et al. disclose related devices.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Oberleitner can be reached on (703) 308-2569. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 308-3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

BAP
October 1, 2001

A handwritten signature in black ink, appearing to read "Robert J. Oberleitner", with a date "10/1/01" written below it.

ROBERT J. OBERLEITNER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600